

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----

DONNA BUTLER,

Plaintiff,

**-v.-**

Civil Action No.  
1:05-cv-1134 (GLS/DRH)

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

-----

APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

ERWIN, McCANE & DALY  
23 Elk Street  
Albany, New York 12207

THOMAS C. ERWIN, ESQ.

**FOR THE DEFENDANT:**

HON. GLENN T. SUDDABY  
United States Attorney for the  
Northern District of New York  
100 South Clinton Street  
Syracuse, New York 13261

WILLIAM H. PEASE  
Assistant United States Attorney

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge David R. Homer, duly filed October 30, 2007. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

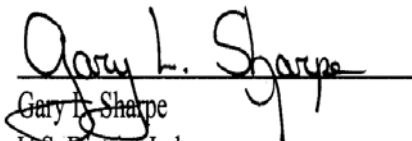
ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed October 30, 2007 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that the decision denying disability benefits is AFFIRMED; Butler's motion for a finding of disability (Docket No. 7) is DENIED, and the Commissioner's cross-motion (Docket No. 8) is GRANTED, and it is further

ORDERED, that the Clerk of the Court is to enter judgment in favor of the Defendants and close this case.

IT IS SO ORDERED

Dated: November 26, 2007  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge